

APPROVED MINUTES*
SUNNYVALE CITY COUNCIL
AND FINANCING AUTHORITY MEETING
TUESDAY, APRIL 28, 2009

7 P.M. COUNCIL MEETING

CALL TO ORDER

SALUTE TO THE FLAG

Mayor Spitaleri led the salute to the flag.

ROLL CALL

PRESENT:

Mayor Anthony Spitaleri
Vice Mayor Christopher Moylan
Councilmember John Howe
Councilmember Ron Swegles
Councilmember Melinda Hamilton
Councilmember David Whittum
Councilmember Dean J. Chu

ABSENT:

None

STAFF PRESENT:

City Manager Gary Luebbers
Assistant City Manager Robert Walker
City Attorney David Kahn
Director of Community Development Hanson Hom
Director of Finance Mary Bradley
Transportation and Traffic Manager Jack Witthaus,
City Clerk Kathleen Franco Simmons
Interim City Clerk Katherine Bradshaw Chappelle

SPECIAL ORDER OF THE DAY – Proclamation Recognizing Fair Housing Month

SPECIAL ORDER OF THE DAY – Proclamation Recognizing Municipal Clerks Week

PUBLIC ANNOUNCEMENTS

Vice Mayor Moylan announced the Santa Clara Valley Transportation Authority will be holding six public meetings in May to review and obtain public input regarding the Fiscal Year 2010 and 2011 recommended budgets, proposed fare modifications, and proposed changes to the ADA paratransit service.

**Approved as Amended by Council on June 2, 2009*

Councilmember Howe acknowledged the efforts of public safety officers who responded to a house fire at Revelstoke Way and Endicott Drive April 25. Councilmember Howe extended his sincerest gratitude for their job well done.

Councilmember Chu announced the Mary Avenue Bridge Grand Opening April 30 at the corner of Mary Avenue and Meteor Drive in Cupertino; connecting Homestead High School with De Anza College. Councilmember Chu also reported he and Vice Mayor Moylan presided over the ribbon-cutting event April 22 for the Borregas Avenue Bicycle and Pedestrian over-passes crossing Highways 101 and 237.

Arley Marley, provided information regarding a challenge team that works with at risk kids coordinated through Sunnyvale's Department of Public Safety (DPS) who will be holding their first Challenge Bicycle Ride May 3. The purpose of the bike ride is to show community support for our children, and to empower community leaders toward safeguarding State and Federal budgets that support children's education, health and safety.

Kevin Jackson, Bicycle and Pedestrian Advisory Committee (BPAC) member, provided information regarding the Mary Avenue Bridge Opening and the Bike to Work Day event May 14.

Grace Witt, founder of Adopt a Military Mom for Mother's Day, provided information regarding Mothers' Day activities hosted by local Blue Star Moms, an organization of mothers of member of the U.S. military who serve around the world.

CONSENT CALENDAR

MOTION: Vice Mayor moved and Councilmember Swegles seconded to approve the Consent Calendar.

VOTE: 7-0

- 1.A. Approval of Council Meeting Minutes of April 7, 2009
- 1.B. Approval of Information/Action Items – Council Directions to Staff

Fiscal Items

- 1.C. RTC 09-102 List of Claims and Bills Approved for Payment by the City Manager - List No. 450

Staff Recommendation: Council review the referenced lists of bills.

Staff Contact: Peter Gonda, (408) 730-7385

- 1.D. RTC 09-106 Countywide AB 939 Fee and Household Hazardous Waste Agreements FY 2009/2010

Staff Recommendation: Alternative No.1 – Council authorize the City Manager to execute the Agency Agreement for Countywide AB 939 Fee and the Agency Agreement for Countywide Household Hazardous Waste Collection Program (with an augmentation amount of \$191,000) and continue to delegate to the City Manager the authority to approve an increase of up to 20% (\$38,200) in the City's augmentation amount.

- 1.E. RTC 09-104 Replacement of the Swim Pool Heater for the Columbia Middle School Pool, Pool Infrastructure Repairs, and Approval of Budget Modification No. 32

Staff Recommendation: Alternative No. 1 – Council authorize replacement of the existing swim pool water heater at the Columbia Middle School swim pool, implement drain cover upgrades to meet Federal Law requirements, allocate funds to repair pool infrastructure at four pools and approve Budget Modification No. 32.

Other

- 1.F. RTC 09-101 2009 Boards and Commissions Master Work Plans

Staff Recommendation: Alternative No. 1 - Council approve the 2009 board and commission master work plans as submitted.

- 1.G. RESOLUTION Adoption of a Resolution and Council Policy Approving a Customer
RTC 09-105 Credit Security Program (“Red Flag Rules”) per the Fair and Accurate
Credit Transaction Act of 2003, Identity Theft Prevention Program

Staff Recommendation: Alternative No.1 – Council adopt a resolution and Council policy approving the Customer Credit Security Program and designate the City Manager or designee to provide oversight and maintain the Customer Credit Security Program.

- 1.H. ORDINANCE Adoption of Ordinance 2895-09 Extending the Life of Specific Permits
No. 2895-09 Which Are Currently Active Pursuant to Title 19 (Zoning) of the
Sunnyvale Municipal Code

Staff Recommendation: Council approve the second reading of Ordinance No. 2895-09

STAFF RESPONSES TO PRIOR PUBLIC COMMENTS

None

PUBLIC COMMENTS

Geoff Ainscow, President of the Sunnyvale Tennis Club, provided information regarding the need for better tennis facilities and stated the Sunnyvale tennis facilities are below standard and unplayable for key matches or professional tennis events. Ainscow requested Council spend the necessary funds to bring the facilities up to par with the caliber and notoriety of the tennis club.

Councilmember Hamilton requested a future status report detailing the activities of the tennis complex rehabilitation.

PUBLIC HEARINGS/GENERAL BUSINESS

2. RESOLUTION Resolution Approving Roadway Reconfiguration Guidelines for
RTC 09-085 Retrofitting Streets with Bike Lanes (Originally Titled *Policy for Allocation
of Street Space*) General Plan Amendment

Transportation and Traffic Manager Jack Witthaus presented the staff report.

Councilmember Whittum requested clarification regarding what triggers the loss of street parking under this resolution.

Transportation and Traffic Manager Witthaus explained the general intent was to put in place procedures and technical information for Council to consider when roads could be reconfigured and clarified that the decision to remove parking remains with Council.

Public hearing opened at 7:31 p.m.

No speakers.

Public hearing closed at 7:31 p.m.

MOTION: Vice Mayor Moylan moved and Councilmember Swegles seconded to approve staff recommendation: Alternative No. 1: Council approve the resolution enacting a General Plan Amendment on allocation of street space as described to incorporate the proposed street allocation policies in the Land Use and Transportation Element of the General Plan.

Vice Mayor Moylan stated he believes this is one of the most important pieces of work done by BPAC and that It is a significant policy to give people a higher priority to drive, ride bicycles, and walk down the street.

VOTE: 7-0

3. RESOLUTION Open Space and Recreation Sub-Element Policy Regarding the Stevens
RTC 09-086 Creek Trail – Resolution and General Plan Amendment

Transportation and Traffic Manager Witthaus presented the staff report.

Councilmember Howe requested information regarding Mountain View crime statistics along the Stevens Creek Trail.

Director of Public Works Marvin Rose provided a response, indicating that in general, Mountain View did not see any higher crime activity along the trail than anywhere else in the City.

Vice Mayor Moylan confirmed with staff that with this item Council does not have the ability to create a substitute policy, but can either keep the existing General Plan policy 2.2.C.5 or strike it. He clarified that if Council wished to amend the policy or craft it in another manner, staff must review it per California's Environmental Quality Act (CEQA), determine what the implications might be and report back to Council at a later date.

Vice Mayor Moylan further explained there is no project on the table, no alignment or plan being discussed and no substitute policy presented, with the only options available with this item is to leave the current policy as is or strike the policy.

Public hearing opened at 7:44 p.m.

Garth Williams, a member on the Friends of Stevens Creek Board of Directors, stated support for the revocation of the Open Space and Recreation Sub-Element to the General Plan policy 2.2.C.5. Williams stated policy 2.2.C.5 is conceptually incompatible with the other policies in the General Plan and creates road blocks to much needed City amenities. He stated that the Stevens Creek Trail and Wildlife Corridor provides excellent educational, recreational and alternate commuting opportunities, and questioned why the City would have a policy banning this. Williams noted that Sunnyvale loses if this regional effort is handcuffed by the same policy that has made Sunnyvale a roadblock to progress for the last 15 years.

Patrick Grant presented a YouTube video detailing possible Stevens Creek Trail routes and stated the time is right to allow a multi-agency coordinated study. Grant stated Los Altos has already shown routing the trail along the creek corridor is possible and desirable.

Sue Kowalski provided information regarding a petition signed by 306 people in favor of policy 2.2.C.5. Kowalski explained this is her second go around regarding this issue, elaborating she visited this policy 15 years ago and stated her frustration that this seems to be a cyclical item that can never be put to rest. Kowalski cited past history of the trail and addressed some safety concerns. Kowalski added she is not anti-trail but asked Council to please revise, not revoke, the current policy and give the community ample time to formulate a response.

Kevon Wade recommended amending the policy through collaboration with the residents to create a new policy which will allow Council to have dialogue with neighboring cities while providing the same protections as in the current policy.

David Hackson presented slides illustrating reasons why the existing policy should not be revoked and provided alternate solutions. Hackson recommended not revoking but revising the policy and working with other cities on surface street routes, protecting neighborhoods and avoiding residential areas.

Councilmember Hamilton asked why he offered surface streets as a viable alternative to a trail when surface streets aren't necessarily the safest option for children.

Hackson explained he didn't see any other option that doesn't run a trail through someone's backyard and suggested possible dividers between street traffic and the bike lane.

Rich Hauser stated he supports a bike trail in Sunnyvale, but is concerned about ecological impacts. Hauser encouraged Sunnyvale citizens to get involved in trail planning and stated he is in favor of amending the policy, not revoking it.

Camie Hackson stated she supports the Stevens Creek Trail and advocates bicycling, but was concerned when she learned about the possible revoking of policy 2.2.C.5. Hackson submitted a petition with over 300 signatures protesting the policy's repeal. She explained that the policy may have flaws but the petition shows its importance to the community. Hackson encouraged Council to work with the neighborhood to revising the policy.

Jim Cordova read a statement on behalf of Detective Sergeant Joe Wade describing safety concerns with a public trail that abuts residential properties. Wade's statement detailed a potential increased safety risk and a substantial decrease in their quality of life, and recommended revising the policy and not to revoke it.

Kim Hall stated she spoke to Council years ago regarding these same trail issues. Hall addressed environmental concerns that may affect the ecologically sensitive trail habitat mentioning the endangered species that reside there. Hall stated she is not against the Stevens Creek Trail but is concerned about the environment and the neighborhood community. Hall urged Council to postpone action to give the residents time to collaborate and asked to revise the policy and not to revoke it.

Robert Sloan asked Council to lift the ban to Stevens Creek. Sloan stated he considered himself part of the less motivated majority; those that do not own property adjacent to the creek but who would like to see Sunnyvale do whatever possible to open up a trail in the community.

Jan Piazza stated she felt this item was being rushed, devoid of community involvement, with the creekside residents only being notified ten days ago. Piazza noted she is not against the Sunnyvale trail but is trying to protect the character of the neighborhood. Piazza emphasized the community would like to be a part of the process and urged Council not to revoke the policy but to revise it so Sunnyvale can discuss trail connections with the surrounding cities.

Ray Murakami explained that due to a lack of notice he was one of the few that spoke to this issue at the January 27, 2009 Council Meeting. Murakami asserted most people were pro-trail with the issue being where the trail should be routed.

Pete Metrulas, Stevens Creek Neighbors member, stated they are not anti-trail but trail advocates. Metrulas suggested Council should maintain a "No Creek Corridor Trail" position specifically between Fremont Avenue and Homestead Rd. Metrulas expressed policy 2.2.C.5 represents a foundational agreement between the City of Sunnyvale and the local residents with numerous studies and working groups concluding that the creek corridor trail is not feasible in that area. Metrulas stated Sunnyvale should maintain a policy that ensures local residents are not exposed to a new debate with each new city administration. Metrulas offered if there is a desire to pursue a trail connection then amend the policy. Due to the lack of notification Metrulas asked to postpone a decision and collaborate with their group on a solution.

Councilmember Whittum asked what the were issues associated with possible neighborhood trail alignments.

Metrulas responded their debate is the striking of the policy which had provided some protection to homeowners and stated he believed that was the intent of the 1994 policy. Metrulas requested a conversation on possible options and explained that could not take place due to the short ten day notice time frame.

Frederick Stawitcke stated he supports striking the 2.2.C.5 policy allowing Sunnyvale to participate with the neighboring communities to plan multi-purpose trails. Stawitcke stated his wife, BPAC member and avid bicyclist, was recently hit by a car while riding on Mary Avenue

Stawitcke stated commuters could have the option to use the trail as an alternative to busy arterial streets and noted the diverse community of cyclists, joggers, couples, and families pushing strollers that use the existing trails.

Corey Williams, resident adjacent to the creek, stated his concerns regarding an increase in neighborhood traffic, whether auto, bicycle or pedestrian. Williams also expressed concerns over not knowing Council's intent for striking the 2.2.C.5 trail policy.

Aaron Grossman, Executive Director of the Friends of the Stevens Creek Trail and Wildlife Corridor, provided background information chronicling his organization's objectives and detailed Mountain View, Los Altos, and Cupertino efforts in creating a feasible, practical and desirable trail. Grossman stated they support the City's recommendation to strike the trail policy but cautioned that striking the policy is not a license to bulldoze anywhere.

Roberta Keller questioned the City's financial ability to fund such a trail amid the country's economic downturn. Keller stated she is a long-time resident and dislikes having to re-visit this issue again and again. Keller also addressed the safety issue of having the trail pass through West Valley school.

Bob Keller, husband of Roberta Keller, cited a few examples noting the creek is a haven for crime.

Tim Oey encouraged Council to strike policy 2.2.C.5 from the General Plan so Sunnyvale has the appropriate flexibility to work with the neighboring cities ensuring the best possible Stevens Creek Trail. Oey stated he was cognizant of homeowners' concerns but indicated he believes they are well protected by the due process involved in the designing of any future trails. Oey added the Stevens Creek Trail has proven to be a valued resource to runners, walkers, bicyclists, and especially to children and families.

Marianne Cali thanked Councilmember Whittum and Vice Mayor Moylan for visiting their neighborhood, and made a presentation illustrating the neighborhood's intent to work collaboratively with all trail stakeholders: the community, Friends of Stevens Creek, and BPAC. Cali stated the Stevens Creek Trail is a wildlife corridor and must be preserved. Cali suggested alternate trail policies and encouraged Council to work with the community as not to polarize the opposition.

Councilmember Howe asked what Cali would recommend as the next steps in the process.

Cali proposed Council proactively ask the community for a forum that would compel BPAC, the Friends of Stevens Creek, and the various neighborhoods to meet, perhaps hiring a professional facilitator. Cali asked Council to seize the moment and view this as an opportunity to build a fiber of community.

Councilmember Hamilton clarified with staff that due to policy 2.2.C.5, Sunnyvale opposes all Stevens Creek Trail alternatives which inhibits dialogue with the neighboring cities.

Kevin Jackson, BPAC member, speaking on his own behalf, referenced the City staff's report in which it indicates the City is not directing that any alternate construction project be authorized. He stated subsequent action would be necessary by the City Council to lead a project, and that project would then be subject to California Environmental Quality Act (CEQA).

Jackson explained that no trail plans are in place or have even been entertained and striking this policy only allows for possible discussion at such time the community can debate potential suggestions. Jackson added that there will be ample opportunity for everyone to voice their concerns about any potential future project but the issue with this item is the removal of an overly restrictive policy that prevents constructive consideration of a promising trail development opportunity.

Jackson recommended not delaying the Council's decision because Sunnyvale's three neighboring cities are already moving forward with plans for their sections of the integrated trail. He also recommended resisting the temptation to tinker with staff's recommendation as it corrects what needs to be fixed without risking any unintended consequences.

Tristan Lawrence urged Council to repeal policy 2.2.C.5 and open the door for possible discussions. Lawrence stated he sympathized with those that expressed apprehension but procedurally this policy inhibits opening and creating solutions.

Angela Rausch stated her and her family have used the Steven's Creek Trail many times with the absolute worst part of their ride being through Sunnyvale. Rausch asked Council to consider revoking this policy noting the opportunity for expansion is desperately needed. Rausch emphasized safe biking is not a luxury but a necessity.

Mark Ellson stated he recently discovered a "Trail Head" was proposed adjacent to his property. Ellson claimed this is news to the neighborhood and cautioned Council not to get ahead of themselves.

Bill Reed recommended for safety and security reasons to not revoke or modify policy 2.2.C.5. Reed stated he recently walked a potential trail site noting there was graffiti, evidence of homelessness, and high fire danger postings.

Martin Kreb urged Council to keep the policy in place explaining his property abuts the creek and noted many past incidents where people trespassed onto his property late at night and police had to be called.

Patrick Reed depicted the Friends of Stevens Creek as being selfish and not as environmentalists. Reed suggested not using these trails for more "open-space" as he believes there are sufficient Sunnyvale and regional county parks that have free access.

Kevin Lawrence suggested it would be a great idea if the Sunnyvale community could be part of the Stevens Creek Trail. He stated if the only way to achieve that, or start negotiations, is to rescind 2.2.C.5 then he would encourage Council to do so.

Greg Schmidt stated he supports repealing policy 2.2.C.5 for safety purposes. Schmidt, an employee at the National Aeronautics and Space Administration (NASA), regularly commutes via bicycle and noted the most dangerous part of his ride is through Sunnyvale. Schmidt stated he disagreed with a previous speaker's assertion that riding on surface streets is safe. He suggested repealing the policy Sunnyvale could provide for safer bicycling throughout the City. Schmidt added Sunnyvale could then encourage leisure and commuter bicycling, thereby reducing Sunnyvale's carbon footprint.

Ginger Wolnik, former BPAC member, urged Council to rescind the policy in order for discussions to begin. Wolnik noted her sister's recent home purchase where access to a local trail was a highly desirable selling point and increased the surrounding property values.

Kathy Besser stated potential trail locations are not being discussed tonight and this alternative to rescind the policy only opens dialogue. She claimed that families, bicyclists, and hikers that would use the trail are clean living people that don't litter and are a positive influence. Besser stated, as a former home owner bordering a major waterway, having disruptive people alongside your property should be expected and goes with the territory. Besser stated she supports peoples' freedom to use "open-spaces" and that 300 people should not determine what might benefit Sunnyvale's over 100,000 population.

Dan Hafeman urged Council to repeal 2.2.C.5 because it's stopping dialogue. Hafeman stated Sunnyvale needs to engage with the other cities on this regional project and openly discuss this valuable resource. Hafeman mentioned that currently there is no contiguous bike lane through Sunnyvale and using surface streets is very dangerous.

Peter Cirigliano recommends revocation of policy 2.2.C.5. Cirigliano detailed similarities of short-sightedness when Bay Area Rapid Transit (BART) tried expanding its development here decades ago and was blocked by different factions and/or counties.

Arthur Schwartz agreed with many speakers on the dangers of riding bicycles on Sunnyvale surface streets. Schwartz stated he believes a dialogue is necessary and asked Council to repeal the policy. Schwartz addressed some of the community's safety concerns by stating that just by the sheer numbers of people using a trail makes the trail safer.

Jeanne Bruins, former co-chair of the Citizens Task Force for Los Altos, noted Los Altos achieved good results by getting the public involved. The citizens group actively engaged with the corridor neighbors, walked the trail, and developed ways to mitigate their concerns. Bruins explained that Sunnyvale couldn't even entertain any possible trail suggestions and couldn't walk the trail segment in question due to the outdated 1994 policy.

Councilmember Whittum requested information as to whether if Los Altos residents had similar concerns as Sunnyvale's regarding traffic, safety, and crime. Additionally, he asked Bruins how the groups engaged and what format they used.

Jeanne Bruins responded she did not hear anything that she hadn't heard before, with Cupertino and Mountain View hearing the same concerns. Bruins stated the lesson learned is that there must be an engaged process with the community and they went out of their way to ensure that all residents of Los Altos, not limited to potential trail residents, were notified as they viewed the trail as a Los Altos amenity. Bruins noted that by taking the time to engage the community, giving the citizenry ample notice, and holding multiple meetings provided beneficial results.

Bruins stated that in order to ensure the community was actively involved, the Los Altos City Council created a Stevens Creek Trail Feasibility Task Force and asked them to look at various route possibilities. Bruins added they met as frequently as they needed, in order engage the public most effectively.

Councilmember Chu asked when routes were looked at where access points were discussed. Councilmember Chu also requested information regarding whether there were any routes within the creek or creek bed alignment.

Jeanne Bruins responded there was only one alignment within the creek corridor, defined as the segment of property that abuts both sides of the creek. Bruins detailed that of the five alternatives that were closely investigated, they recommended the one and only one that did align with the creek corridor. Bruins elaborated that due to Sunnyvale's lack of involvement, the Mountain View portion of the trail would be forced to terminate at Mountain View High School which would require another bridge crossing Highway 85.

Bruins stated the benefit of having these four city meetings was to allow the development of creative solutions and to allow cities the opportunities to consider alternatives by talking with the different jurisdictions.

Regarding access point conception, Bruins emphasized that they did not get far because those would be in Sunnyvale's side of the corridor, and they would have needed Sunnyvale's participation.

Bruins cited Mountain View's experience with access points, stating very few people drive to access points to get onto trails. Bruins noted families are biking to the trails, or walking from their residences, and commuters are obviously starting from their homes as well. Bruins added that access points would be something in the next level of study but was not raised as a major issue or concern based on the proposed route.

Bruins noted that the feasibility process was approximately 18 months in duration.

Margaret Lawson emphasized that no discussions or plans can go forward without first repealing this policy. Lawson addressed earlier speakers' comments about the short notice given and stated governments and municipalities as a whole do not move quickly. Lawson strongly urged Council to revoke policy 2.2.C.5 so the community and the City can cooperatively discuss solutions for Stevens Creek.

Councilmember Swegles left the dais at 9:09 p.m.

Councilmember Swegles returned to the dais at 9:12 p.m.

Councilmember Howe left the dais at 9:13 p.m.

Councilmember Howe returned to the dais at 9:16 p.m.

Mayor Spitaleri thanked the community for attending the Council Meeting and noted the importance of hearing their point-of-view.

Public hearing closed at 9:21 p.m.

Councilmember Howe verified with City Attorney Kahn that as part of a motion Council could direct staff to coordinate whatever appropriate community meetings would be required to get dialogue underway; and that Council could suggest the Mayor appoint a task force at his discretion.

City Attorney Kahn additionally noted a Council appointed committee could alternatively be created but that would require additional work and application consideration; being a more involved process and subject to the Brown Act.

Councilmember Hamilton noted speakers' environmental concerns and wanted to ensure that any proposed project would take into account the appropriate environmental considerations.

Director Rose confirmed any project that Council asked staff to pursue would subsequently be reviewed to the required CEQA level.

Councilmember Chu requested information regarding the specific parcel outlay of Stevens Creek.

Director Rose responded that staff has done no study on this question. Director Rose elaborated since there isn't a project it has not been looked into.

Councilmember Chu verified with City Attorney David Kahn that with this item Council has the options of keeping policy 2.2.C.5 as is or revoking it, but that Council has the ability to look at revising the policy possibly through a study issue at a later date.

MOTION: Vice Mayor Moylan moved and Councilmember Howe seconded to approve staff recommendation: Alternative No. 1 – Council approves the attached resolution (Attachment A) enacting a General Plan Amendment to strike policy 2.2.C.5 from the Open Space and Recreation Sub-Element of the General Plan.

with:

Council to direct staff to come back to Council with General Plan Amendment options with one stating the City will make every effort to facilitate bicycle trails in Sunnyvale without taking any residential property.

and:

any alternatives that any citizen or group would suggest to staff could also be included as a possible amendment to the General Plan.

Vice Mayor Moylan stated the second part of motion is to provide assurance to the neighborhoods and give the City flexibility in dealing with potential General Plan Amendment alternatives.

Mayor Spitaleri confirmed with the City Attorney Kahn that any changes to the General Plan would require additional CEQA review.

Vice Mayor Moylan noted, citizens have asked for him to do whatever is most advantageous for Sunnyvale and get in there and get access to what they are constructing. Moylan explained, as the negotiator in dealings with the other cities, due to policy 2.2.C.5 his hands are tied.

Vice Mayor Moylan responded to previous speakers' questions regarding the urgency of striking the policy and explained the next cooperative four-city meeting is on May 11.

Vice Mayor Moylan cited his reasons for the revoking the policy: that Sunnyvale's hands are currently tied in city negotiations and/or development; also as BPAC previously pointed out this policy is out of character with the rest of the General Plan which is supposed to be general in nature; and that the policy is demonstrably false stating that trail construction is

not feasible anywhere within Sunnyvale city limits when in fact in some areas it is definitely feasible. Vice Mayor Moylan added the policy as it's written is wrong.

Vice Mayor Moylan explained that nothing is happening now except trying to enable Sunnyvale the ability to speak with other cities; understanding that Council is concerned that whatever happens must be done in an environmental way. Vice Mayor Moylan noted the Water District has the responsibility to maintain the environment of the creek and is very enthusiastic about these potential plans. Vice Mayor Moylan stated the Water District pays cities to put trails in and has paid both Cupertino and Mountain View thousands of dollars to construct the Stevens Creek Trail. Vice Mayor Moylan provided assurance that any plan for a trail running through Sunnyvale absolutely must not impact the environment.

Vice Mayor Moylan expanded that the first step is to allow him to go to the May 11 meeting and lobby on Sunnyvale's behalf to get the best terms of what the other cities are trying to do.

Councilmember Howe stated there needed to be some protections, with the people knowing what the next steps are and reiterated the importance of keeping the citizenry informed.

Councilmember Howe posed a friendly amendment to direct the Mayor to create a three member sub-committee to solicit input from the community and engage discussion to deal with other jurisdictions effectively, and to report back to Council by the end of the calendar year.

Councilmember Hamilton clarified that the committee is formed for the purpose of making recommendations about the General Plan Amendments and/or what direction Council should take and not where the trail should go.

Councilmember Hamilton stated she believed at issue is the community's concern where the trail is going to go and not what's in the General Plan. Councilmember Hamilton added that assuming Council revokes the policy and has dialogue, which everyone wants to have, making changes to the General Plan doesn't actually figure out where the trail is going to go. She stated the only way to ease the neighborhood's fear is to determine where the trail is going to go, if anywhere.

Councilmember Hamilton stated her preferred motion would be to revoke the policy and put together a citizen task force with a councilmember on it that would look at recommendations of possible trail locations. Councilmember Hamilton stated that making changes to the General Plan is fine but does not address the real issue; which is the Stevens Creek Trail.

Councilmember Whittum agreed that the neighborhood outreach, the task force and the elimination of policy 2.2.C.5 are in the best interests of Sunnyvale to freely consider trail connections. Councilmember Whittum stated the community raised valid concerns with parking, traffic and safety, with Council's job to engage the citizens and resolve those issues. Councilmember Whittum expressed concern about the complexity of the motion stating it is premature to formulate a specific General Plan Amendment addition unless it simply states the City would not intend to use eminent domain on residential property anywhere in Sunnyvale. Councilmember Whittum added that if Council sends the task force, a new group, or residents off in search of their favorite revision it would be putting the cart before the horse because the projects and the alignments haven't been studied, and we haven't seen the environmental outcomes. Councilmember Whittum stated we're apt to get something very specific back that is really not informed by the technical details.

FORMAL AMENDMENT TO THE MOTION: Councilmember Whittum and Councilmember Hamilton seconded to approve staff recommendation: Alternative No. 1 – Council approves the attached resolution (Attachment A) enacting a General Plan Amendment to strike policy 2.2.C.5 from the Open Space and Recreation Sub-Element of the General Plan, **only**.

without:

the friendly amendment and added stipulations created by Vice Mayor Moylan and Councilmember Howe.

Councilmember Swegles stated if Vice Mayor Moylan's original motion passes he'd strongly suggest that the sub-committee be a Citizen's Advisory Committee to ensure neighborhood input and involvement.

Councilmember Chu opposed the formal amendment stating that Sunnyvale residents want to know what the next steps are.

VOTE: 2-5 (Councilmembers Hamilton, Howe, Swegles, Vice Mayor Moylan and Mayor Spitaleri dissented)

RESTATED MOTION: Vice Mayor Moylan moved and Councilmember Howe seconded to approve staff recommendation: Alternative No. 1 – Council approves the attached resolution (Attachment A) enacting a General Plan Amendment to strike policy 2.2.C.5 from the Open Space and Recreation Sub-Element of the General Plan.

modified with:

the creation of a Mayor's appointed sub-committee to engage in citizen outreach to generate alternatives to the Open-Space and Recreation sub-element of the General Plan and Council has the charter to consider possible actions to proceed, with that work required by the end of the calendar year.

Councilmember Chu proposed a friendly amendment to provide assurances and to further clarify protection of property boundaries bordering Stevens Creek between Fremont Avenue and West Valley Elementary School.

Vice Mayor Moylan did not accept the friendly amendment stating the General Plan is supposed to be general and Councilmembers Chu's suggestion was too specific to one neighborhood.

Director Rose clarified that it is clear that the intent of the motion is to strike the policy. Council then does not have to do anything more with the General Plan. Director Rose explained the General Plan is general in nature. The Mayor's Committee could work on these alignments and return to Council with recommendations; with the one issue that might be part of the General Plan Amendment being the taking of property. That's a general issue and Council could take that issue as it pertains to any trail in the City. Director Rose suggested the rest of this is really an alternative analysis on a specific project independent of the General Plan.

Councilmember Moylan understood his motion was complicated but he was considering the members of the public that had wanted to craft their own possible alternative amendments to the General Plan.

Director Rose stated that Council would be getting itself into the same situation they currently have by adding a specific requirement to the General Plan.

Councilmember Hamilton opposed the motion stating the underlying problem is the community's concern over the development of the Stevens Creek Trail. Councilmember Hamilton stated the General Plan is supposed to be general. She reiterated the issue is not adjusting the General Plan but what is to be done about the Stevens Creek Trail. She suggested the next steps should deal with the trail because that is what the community is worried about. Councilmember Hamilton stated she understood what Vice Mayor Moylan was trying to accomplish but stated she doesn't think that addresses the problem.

Councilmember Hamilton pointed out the number of organized and interested people at the meeting that requested dialogue and stated it would be a mistake not to build on that momentum.

Councilmember Whittum opposed the motion stating it was not well worded and stated he was troubled that the onus was on the neighborhood to respond so quickly. He also explained the issues raised and the discussion that needs to take place should be in a project context. Councilmember Whittum viewed this is out of place in the General Plan.

Mayor Spitaleri supported the motion and cited an example where intercity dialogue and regional cooperation is necessary. Mayor Spitaleri explained without the ability to talk with other cities, Sunnyvale goes nowhere and that's what the current policy 2.2.C.5 does, it handcuffs the City. He elaborated that the direction to a possible Mayor's task force would be to engage the citizens, engage outreach to the community, and engage community meetings to discuss these issues so the task force could intelligently report back to Council on what the community wants. Mayor Spitaleri stated he's confident that the citizens in the community will provide Council the information and insight to make the right decision.

VOTE: 5-2 (Councilmembers Whittum and Hamilton dissented)

Mayor Spitaleri gave direction to his task force (Councilmembers Whittum and Hamilton, and Vice Mayor Moylan) to engage the community, reach out and meet with them; opening a dialogue and doing what's appropriate to represent the community's needs.

Councilmember Hamilton asked Mayor Spitaleri if it is in the purview of the committee to look at possible trail alignments.

Mayor Spitaleri answered that is an item for the committee to discuss.

Councilmember Hamilton was concerned that the committee wouldn't be able to finish by the end of the calendar year sunset date.

Vice Mayor Moylan suggested then one of the committee's recommendations should be to come back for future work; making sure the protection is put in the General Plan by the end of the year.

City Attorney Kahn interjected that because the committee is mayor appointed it would be structured as an Ad Hoc Committee; however, if Council as a whole gave direction it would then be characterized as a Brown Act Committee.

Councilmember Hamilton pointed out that if the committee is appointed by the mayor, the committee would cease to exist when Mayor Spitaleri is no longer mayor and there would be no chance to have looked at trail alignments by January 2010.

Mayor Spitaleri responded that it wouldn't mean the succeeding mayor wouldn't want to move forward with the committee.

Councilmember Hamilton stated if Council appointed the committee it would have a longer life.

COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Councilmember Swegles reported he attended a luncheon for the Greater San Jose Hispanic Chamber of Commerce which received an award from President Obama's appointed Overseas Private Investment Corporation (OPIC). The Greater San Jose Hispanic Chamber of Commerce received an award for their global outreach efforts to different countries. Councilmember Swegles stated OPIC works with people getting established in foreign trade. He added that OPIC has plenty of money still available to anyone that might be interested.

NON-AGENDA ITEMS & COMMENTS

- Council Councilmember Swegles asked for an update on his request for the possible postponement of the CDBG funding hearing.

City Manager Luebbbers explained the City is at the mercy of the Housing and Urban Development (HUD) awaiting allocation; which the City has yet to receive. City Manager Gary Luebbbers affirmed they would move the CDBG funding hearing from May 5 to the Council Meeting of May 12, anticipating by that time they will have the HUD allocations and be able to make firm commitments.
- Staff None

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- Draft Minutes of Heritage Preservation Commission meeting of April 1, 2009
- Draft Minutes of Parks and Recreation Commission meeting of April 8, 2009
- Draft Minutes of Arts Commission Meeting of April 15, 2009
- RTC 09-103 Opportunity for Council to appeal decisions of the Planning Commission of April 13, 2009 and the Administrative Hearing of April 15, 2009
- RTC 09-100 Board and Commission Resignation (Information Only)

COUNCIL CONVENES TO MEETING OF FINANCING AUTHORITY

FINANCING AUTHORITY

CALL TO ORDER

ROLL CALL

PRESENT:

Authority Chair Anthony Spitaleri
Authority Vice Chair Christopher Moylan
Authority Member John Howe
Authority Member Ron Swegles
Authority Member Melinda Hamilton
Authority Member David Whittum
Authority Member Dean J. Chu

ABSENT:

None

STAFF PRESENT:

Authority Executive Director Gary Luebbers
Assistant City Manager Robert Walker
Authority Counsel David Kahn
Authority Secretary and Director of Community Development
Hanson Hom
Authority Treasurer and Director of Financing Mary Bradley
Authority Clerk Kathleen Franco Simmons
Interim Authority Clerk Katherine Bradshaw Chappelear

CONSENT CALENDAR

MOTION: Authority Member Howe moved and Authority Vice Chair Moylan seconded to approve the Consent Calendar.

VOTE: 5-0 (Mayor Spitaleri and Councilmember Chu abstained)

FA 1.A. Approval of Financing Authority Meeting Minutes of June 24, 2008

STAFF RESPONSES TO PRIOR PUBLIC COMMENTS

None

PUBLIC COMMENTS

None

PUBLIC HEARINGS/GENERAL BUSINESS

2. RESOLUTIONS Authorization to Issue Variable Rate Demand Refunding Certificates of
FA 09-001 Participation to Refund 2001 Certificates of Participation for Government
Center Site Acquisition

Director of Finance Mary Bradley presented the staff report.

Public hearing opened at 10:20 p.m.

No speakers.

Public hearing closed at 10:20 p.m.

MOTION: Councilmember Howe moved and Councilmember Hamilton seconded to approve staff recommendation: Alternative No.1 – City Council and Sunnyvale Financing Authority adopt resolutions approving the refunding of the 2001 COPs, the execution of certain Lease financing documents, authorizing and directing the sale of the Refunding COPs, approving an Official Statement and authorizing and directing certain related actions.

VOTE: 7-0

ADJOURNMENT OF COUNCIL AND FINANCING AUTHORITY MEETING AT 10:22 P.M.

Kathleen Franco Simmons
City Clerk/Board Clerk

Date